

REPORT OF STREAMLINED SALES AND USE TAX COMMISSION

I. Origin and Purpose of the Streamlined Sales and Use Tax Commission

The Commission was created as the result of Act 2011-563 with the stated directive "to identify, develop, implement, and administer the procedures and programs the State of Alabama would need to come into compliance with the Streamlined Sales and Use Tax Agreement in the event that federal legislation implementing the agreement or the general concepts of the agreement, which includes a requirement that remote sellers collect and remit sales and use taxes to member states, becomes law. The recommendations of the Commission, if ratified by the Legislature pursuant to this act, shall not be implemented until and unless federal legislation adopting the Streamlined Sales and Use Tax Agreement becomes law."

II. COMPOSITION OF THE STREAMLINED SALES AND USE TAX COMMISSION

As provided in the Act, the Commission was to be composed of 10 members, appointed as follows:

- (1) Two representatives of municipal government, who would be municipal employees or officials, appointed by the Alabama League of Municipalities.
- (2) Two representatives of county government, who would be county employees or officials, appointed by the Association of County Commissions of Alabama.
- (3) Four employees of the Department of Revenue appointed by the Commissioner of the Department of Revenue.
- (4) One representative of the retail community, appointed by the Alabama Retail Association.
- (5) One representative of the business community, appointed by the Business Council of Alabama.

The members of the Commission and their appointing authorities are shown in Attachment 1, hereto.

III. DUTIES OF THE STREAMLINED SALES AND USE TAX COMMISSION

As provided in the Act, the duties of the Commission included identification and development of each of the following as necessary for compliance with the Streamlined Sales and Use Tax Agreement:

- (1) The development of a system for single entity administration of state and local sales and

use tax collection and distribution.

- (2) The development of a system designed to provide proper notice of changes in state or local sales and use taxes or rates to taxpayers and the single entity administrator.
- (3) The development of a system designed to provide proper implementation of changes in state or local sales and use taxes or rates.
- (4) The development of a system providing for taxpayer audits by persons or entities other than the single entity administrator as authorized by the agreement.
- (5) The development of a database of all state and local sales and use tax rates.
- (6) Any other systems, programs, or policies the Commission determines are required for compliance with the agreement.

IV. FEDERAL LEGISLATION

As provided in the Act "if ratified and approved by the Legislative Council, the recommendations of the Commission shall be implemented and administered only in the event federal legislation adopting the Streamline Sales and Use Tax Agreement or the general concepts of the agreement which include a requirement that remote sellers collect and remit sales and use taxes to member states, becomes law."

In the event federal legislation is enacted requiring remote sellers to collect and remit sales and use taxes in a manner inconsistent with the Streamlined Sales and Use Tax Agreement, as of the date of this report, then the findings of the Commission shall be modified to conform to the requirements of the enacted federal legislation.

V. GENERAL FINDINGS OF THE STREAMLINED SALES AND USE TAX COMMISSION

1. The existing entity most capable of providing single entity administration of state and local sales and use taxes is the Alabama Department of Revenue. This single entity administration includes the following:

- (a) Sellers and purchasers registering with, filing returns with, and remitting funds to the single entity administrator;
- (b) The single entity administrator collecting and distributing the taxes for the state and all local governments, with taxes for each location stated as a single, combined rate applicable to the destination and the item being taxed; and
- (c) The single entity administrator coordinating all audits and enforcement, in cooperation with the applicable local governments, of all taxpayers subject to Alabama sales and use tax.

- (d) A local government may optionally elect to allow the single entity to administer rental or lodgings taxes.

2. The administration of state and local sales and use taxes must be a combined and coordinated effort between the state and the local taxing jurisdictions, to ensure maximum coverage of taxable activities, to ensure that the sales and use taxes for all applicable jurisdictions are covered, and to ensure that taxpayers do not face duplicate or unauthorized audits.

Nothing in this report or the actions proposed by the Commission shall apply to taxes other than sales and use taxes. Local governments may conduct enforcement and auditing activities in conjunction with the single entity administrator, as provided in this report.

3. A State and Local Advisory Council will be established as provided in Attachment 2, hereto.

VI. SPECIFIC PROGRESS TOWARD THE STATED GOALS OF THE COMMISSION

(1) The development of a system for single entity administration of state and local sales and use tax collection and distribution.

- Identified the Alabama Department of Revenue as the proposed single entity administrator.
- Established that all billings, collections, adjustments and distributions would be joint, with each taxing jurisdiction having a pro-rata percentage of the established tax liability for the applicable period, based on its tax rate. No transactions would be for any individual entity.
- Set general parameters for disbursements to counties and municipalities being made at least every four business days, with an ultimate goal of making the disbursements immediately.
- Set parameters for detailed, real-time reporting of tax return information to accompany disbursements, listing taxpayers, tax type, gross receipts, tax paid, and period in a common format. Other operational detail could be left for phase two of the report or to the Advisory Council. Appropriations will be received from the legislature as provided in Act 2011-563, so that administrative services shall be provided at no cost to local governments. The estimated costs of implementing the required changes shall be determined.

(2) The development of a system designed to provide proper advance notice of changes in state or local sales and use taxes or rates and jurisdictional boundaries to taxpayers and the single entity administrator.

- The Department of Revenue currently has in place a system of notifying taxpayers of

rate changes by local tax jurisdictions, including postings on its web site, and making direct contacts with affected taxpayers. This system is adequate for the notices required by Act 2011-563.

(3) The development of a system designed to provide proper implementation of changes in state or local sales and use taxes or rates.

- The Department of Revenue's filing system includes the rates to be charged for each local taxing jurisdiction. As rate changes are adopted, the new rates are built into the system and become effective on the appropriate date. Taxes reported on all returns filed through the system are calculated using the included rates. This system is adequate for the implementation of rate changes required by Act 2011-563.

(4) The development of a system providing for taxpayer audits by persons or entities other than the single entity administrator as authorized by the agreement and coordinated by the single entity administrator, subject to input from the Advisory Committee.

- Local governments shall maintain the ability to audit taxpayers through proper coordination with the single entity administrator. However, the audit must be conducted on behalf of all jurisdictions in the State and reviewed and approved for assessment through the single entity administrator.
- Uniform qualifications and training for all auditors. (Grandfathering of properly trained and experienced auditors to be determined in phase 2 or by the Advisory Council).
- Partial payments are pro-rated between the State and applicable local jurisdictions.
- An appeal mechanism to the Advisory Council for any audit requested by a local government denied or ignored without cause by the single entity administrator.
- Full information sharing (work papers, letters, assessments, etc.) between the single entity administrator and any authorized employees of a local government affected by an audit. This would include the local government employee receiving an advanced copy of any assessment for review before being finalized.
- Access to real-time reports of audit progress.

(5) The development of a database of all state and local sales and use tax rates.

- Address-based GIS service will need to be purchased, but the specifics will be determined by the piece of federal legislation that is ultimately enacted.

(6) Any other systems, programs, legislative changes or policies the Commission determines are required for compliance with the SST Agreement.

This preliminary report was submitted to the Department of Revenue, all Alabama counties and municipalities, the Business Council of Alabama, and the Alabama Retail Association. The report was also posted on the web sites of the Department of Revenue, the Association of County Commissions of Alabama, and the Alabama League of Municipalities.

During the 45-day comment period established by the Act, the Commission received comments from various interested parties at an e-mail and a U.S. postal mail address, as stated in the preliminary report, as well as by hand delivery. The comments, along with the "Synopsis of Feedback" (included as Attachment 3, hereto) were discussed and considered by the Commission at its final meeting prior to submission of this report.

The members below hereby submit this report on this the 15th day of February, 2012:

Mark Culver, Chairman

Betty Peterson

J. Thomas Barnett, Jr.

Jarrold Simmons

Alvin Lewis, Jr., CPA

Mary Lynn Cooper, CPA

Curtis E. Stewart

Joe Walls

Deborah Lee

Reese Hodges

STREAMLINED SALES AND USE TAX COMMISSION APPOINTEES

Hon. Mark Culver

Chairman, Houston County Commission

Appointed by: Association of County Commissions of AL

Betty Peterson

Director, Madison County Sales Tax Department

Appointed by: Association of County Commissions of AL

J. Thomas Barnett, Jr.

Finance Director, City of Birmingham

Appointed by: AL League of Municipalities

Jarrold Simmons

Asst. Finance Dir., City of Anniston

Appointed by: AL League of Municipalities

Alvin Lewis, Jr., CPA

Vice President of Tax and Payroll

Books-A-Million, Inc., Birmingham

Appointed by: AL Retail Association

Mary Lynn Cooper, CPA

Corporate Tax Accountant, Mayer Electric

Appointed by: Business Council of AL

Curtis Stewart

Director, Tax Policy and Research Division

Alabama Department of Revenue

Appointed by: Commissioner of Revenue

Joe Walls

Director, Sales & Use Tax Division

Alabama Department of Revenue

Appointed by: Commissioner of Revenue

Deborah Lee

Sales and Use Tax Administration Manager

Alabama Department of Revenue

Appointed by: Commissioner of Revenue

Reese Hodges

Special Assistant to Revenue Commissioner

Alabama Department of Revenue

Appointed by: Commissioner of Revenue

ORGANIZATIONAL STRUCTURE
ALABAMA STREAMLINED SALES AND USE TAX
STATE and LOCAL ADVISORY COUNCIL

Purpose of the State and Local Advisory Council

A State and Local Advisory Council will be established to ensure that counties and municipalities will have meaningful input into the development, implementation, and management of the state-level process. This Council will make recommendations on the initial transitional procedures and implementation and, on an on-going basis, provide input, feedback and troubleshoot on program issues as they arise. This body will also establish criteria and procedures for state and local officials and employees to meet in order to initiate and conduct audit and enforcement activities. The Council may establish sub-committees to address specific areas of concern, such as audits, enforcement, administration or other matters identified by the Council. Members of such sub-committees need not be members of the Council.

Composition of the State and Local Advisory Council

The State and Local Advisory Council will be composed of nine voting members, as follows:

- The Commissioner of the Alabama Department of Revenue and two other employees of the Department appointed by the Commissioner
- Three county representatives appointed by the Association of County Commissions of Alabama
- Three municipal representatives appointed by the Alabama League of Municipalities

Two additional representatives of the business community shall be appointed to Commission to serve in a non-voting capacity, as follows:

- One representative of the business community appointed by the Business Council of Alabama
- One representative of the retail community appointed by the Alabama Retail Association

As non-voting members, the representatives of the business community may participate in meetings and offer comments and input; but may not participate in any aspect of the Advisory Council's or any subcommittee's work that involved the selection of taxpayers for audit, quality review of such audits, or peer review of the auditors, or other taxpayer-specific matters. The business representatives may participate otherwise on sub-committees.

The Department of Revenue will provide staff to assist with the work of the council. A quorum will consist of seven (7) voting members, and a majority of those in attendance and voting must vote in favor of or against any proposal in order for the proposal to constitute official action.

Appeal for Department's Lack of Attention

In the event the Department fails to act on recommendations made by the State and Local Advisory Council, it may, by a majority of the voting members who are present and voting, appeal for a determination on whether the recommendations of the Council shall be implemented by the Department as part of the program.

The appeal shall be made to a special committee consisting of the following five people:

- The State Auditor
- The President or another Officer of the Association of County Commissions
- The President or another Officer of the League of Municipalities
- Two Others to be Named by the Governor, who Shall not be Officials or Employees of the Department of Revenue.

A Required Meeting of the Special Committee shall be called by the State Auditor, and the decision, by majority vote, of the special committee shall be final.

SYNOPSIS OF FEEDBACK RECEIVED ON THE
ALABAMA STREAMILINED SALES AND USE TAX COMMISSION
PRELIMINARY REPORT

Number of responses 16

Breakdown of Respondents

Local Government	6
Businesses	4
CPA's	2
Business Group or Association	3
Tax Collection Provider	1

With few exceptions, there was a very clear line in responses between the business community and local government. I have listed sample statements taken from various responses to get a feel for the direction of each group. The sense of the comments is that we move full speed ahead or that we don't move at all. Unfortunately, our request was for input to the report and we received very little specific report suggestions.

Sample Local Government Responses

"we are concerned about the tax monies being allocated to the correct city"

"let the municipalities choose their own method of collection"

"While I agree that changes are needed to make doing business in the State of Alabama easier, this cannot happen at the expense of local government."

"... supports the work of the Commission, Governor Bentley and the Alabama Legislature to join the national streamlined effort."

"... does not want implementation of the effort to unintentionally affect existing revenues in a negative manner, and ... appreciates that the Commission is sensitive to this issue"

"We do not agree with the report in its current form"

"I hope our legislature does not get us involved with this "plan" before federal legislation passes."

Sample Business Related Responses

"PLEASE make this happen!"

"Having the ability to electronically file ALL counties and cities in one location (preferably with ADOR) would aid them (clients) greatly in maintaining compliance."

"Is there any way to implement this plan without federal enactment?"

"I see no reason to wait on federal legislation to pass to migrate to a single entity administrator of Alabama's state and local sales taxes."

"We believe that implementation of these recommendations will be a win-win situation for all stakeholders"

"We do hope that the Commission's recommendations can be implemented during the next legislative session."

"Alabama must make every effort this year to simplify its overly complex and disjointed sales and use tax system."

"... requests the Commission include rental tax within its recommendations..."

"Having a single filing point would be wonderful..."